



IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
(AS AMENDED BY THE PLANNING ETC (SCOTLAND) ACT 2006).**

**TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS)
(SCOTLAND) REGULATIONS 1984, AS AMENDED.**

**ADVERTISEMENT ENFORCEMENT
NOTICE**

REFERENCE NUMBER: ED2013/0139/ENF

SERVED BY: East Dunbartonshire Council

**SERVED TO: Gillies Muir Ltd,
Per Jeffrey Aitken Solicitors & Estate Agents,
Fortune House,
74 Waterloo Street,
Glasgow,
G2 7DA.**

- 1. THIS IS A FORMAL NOTICE** issued under the provisions of Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended (hereafter referred to as “the Regulations”) by East Dunbartonshire Council (hereafter referred to as “the Council”) as Planning Authority because it appears to the Council that there has been a breach of advertisement control at the land hereinafter described.

The Council believes it is expedient to issue this Notice as advertisements have been displayed by “Sun Shack” without consent having been granted by the Council, and with such consent being required by the Regulations.

- 2. THE LAND AFFECTED BY THE NOTICE**

The site (hereinafter referred to as “the Site”) to which this Notice relates forms an area of land and premises at “Sun Shack”, 2 Freeland Place, Kirkintilloch, East

Dunbartonshire, G66 1ND as identified and delineated in red on the Location Plan, noted as such, attached and annexed to this Notice.

3. THE BREACH OF ADVERTISEMENT CONTROL ALLEGED

The advertisements (hereinafter referred to as “the Advertisements”) referred to in this Notice are displayed without consent, and with such consent being required by the Regulations. The Advertisements are described in **Schedule 1**, noted as such, and attached and annexed to this Notice.

4. REASONS FOR ISSUING THIS NOTICE

- a) Each of the Advertisements referred to in this Notice is an advertisement as defined by Regulation 2 of the Regulations.
- b) The Advertisements do not fall within any of the specified classes of advertisements displayed with deemed consent as described in Schedule 4 of the Regulations.
- c) As the Advertisements do not fall within any of the specified classes of advertisements which may be displayed with deemed consent as described in Schedule 4 of the Regulations, a consent by either the Council or the Scottish Ministers is required, and no such consent has been granted.
- d) An application for retrospective Advertisement Consent was refused by the Council as planning authority on 27 March 2013 under TP/ED/13/0029 for illuminated fascia signs and window displays at the premises. The reasons for refusal are as follows:
 - 1. The proposed fascia signs and window signs, by virtue of their size, design, external appearance and siting at a prominent corner would result in an unsympathetic addition to the host property which adversely affects the appearance of the building and the wider street scene. The proposal would therefore be contrary to the provisions of the East Dunbartonshire Local Plan and in particular Policy DQ 2C: Advertisements which states “When considering applications to display advertisements, the Council will take account of the impact of the proposal on the amenity of the site and the surrounding area” and Guidance Note 1 Advertisement Control.

The Report of Handling of this application is contained within **Schedule 2** noted as such, and attached and annexed to this Notice.

No review of the Council’s decision to refuse Advertisement Consent was requested within the prescribed time limit.

5. WHAT YOU ARE REQUIRED TO DO

You shall take the following steps:

- (1) Discontinue the use of the Site, as identified and delineated in red on the Location Plan, for the display of the Advertisements.

Time Period for Compliance: 10 weeks from the date the notice takes effect.

- (2) Remove each of the Advertisements, as described in Schedule 1, from the Site as identified and delineated in red on the Location Plan.

Time Period for Compliance: 10 weeks from the date the notice takes effect.

- (3) Remove from the land all associated materials and rubble arising from compliance with the first requirement above.

Time Period for Compliance: 10 weeks from the date the notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on ~~14 May 2014~~, unless an appeal is made to the Scottish Ministers before the date the notice takes effect. ^{^ 1 July 2014 (date of Appeal Decision Notice)}

A copy of this Notice is served on the owner, lessee and occupier of the land or premises to which it relates and on any other person known to the Council as planning authority to be displaying the advertisements without such consent.

7. YOUR RIGHT OF APPEAL


You can appeal against this notice, however your appeal must be received, or posted in time to be received by the Scottish Ministers before this Notice takes effect i.e. no later than end of business **13 May 2014**.

Schedule 3 contains explanatory notes for those who receive an Advertisement Enforcement Notice. The Schedule contains information on your right of appeal.

PLEASE READ THEM CAREFULLY.

8. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this notice, it will take effect on **14 May 2014** and you must then ensure that the required steps for complying with it, for which you are held responsible, are taken within the time periods, as specified in the notice. Failure to comply with the requirements of this Notice can result in prosecution and/or remedial action by the Council.

Dated: ^{31/4/14} Bob 

Signed:

Diane Campbell
Director of Governance & Regulation

On behalf of: **East Dunbartonshire Council**
12 Strathkelvin Place,
Kirkintilloch,
East Dunbartonshire
G66 1TJ.

LOCATION PLAN



Scale 1:500

This is the plan referred to in the foregoing **Advertisement Enforcement Notice** in accordance with the terms of Regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended relating to the display of advertisements for which consent is required under the Regulations on an area of land and premises as shown delineated in red at "Sun Shark", 2 Freeland Place, Kirkintilloch, East Dunbartonshire, G66 1ND.

Dated: 3/4/14

Signed: 

Diane Campbell, Director of Governance & Regulation, East Dunbartonshire Council, 12 Strathkelvin Place, Kirkintilloch, East Dunbartonshire, G66 1JJ.

ENFORCEMENT OF ADVERTISEMENT CONTROL

SCHEDULE 1

DETAILS OF THE ADVERTISEMENT REFERRED TO IN THIS NOTICE

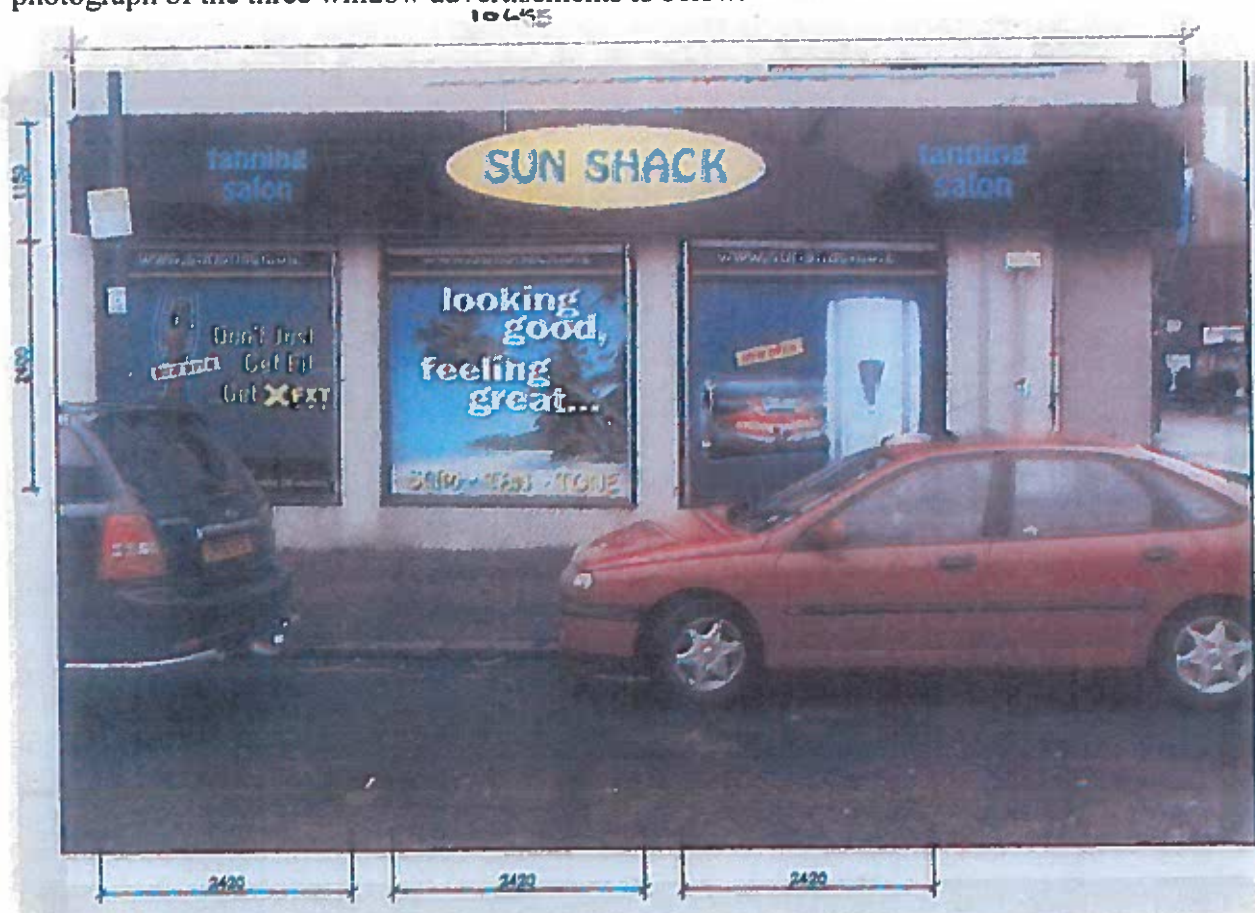
Details of the Advertisements Displayed Within the Elevation Facing onto Freeland Place, Kirkintilloch:

1. Fascia Sign

The illuminated advertisement takes the form of a single sided fascia sign fixed to the fabric of the building facing onto Freeland Place, Kirkintilloch. The display area of the advertisement is generally rectangular (horizontal emphasised) in shape and measures 1.15 metres in height by 10.66 metres in length and is located directly above the window openings of the ground floor premises. The colour scheme of the advertisement comprises of a black background with a centrally placed oval shaped logo flanked to each side by blue coloured text reading "tanning salon". The logo itself has a yellow coloured background with blue coloured text reading "SUN SHACK" together with a thin blue coloured border around the edge of the oval shape. For the avoidance of doubt, a digital photograph of the fascia sign is below.

2. Window Advertisement

The advertisement takes the form of a different large multi coloured image printed on a vinyl/film or similar material attached to the internal surface of the glazing to each of the three window openings on the ground floor level of the premises facing onto Freeland Place, Kirkintilloch. The display area of each of the advertisements is generally square in shape measuring 2.40 metres in height by 2.42 metres in width. For the avoidance of doubt, a digital photograph of the three window advertisements is below.



ENFORCEMENT OF ADVERTISEMENT CONTROL

SCHEDULE 1

DETAILS OF THE ADVERTISEMENT REFERRED TO IN THIS NOTICE

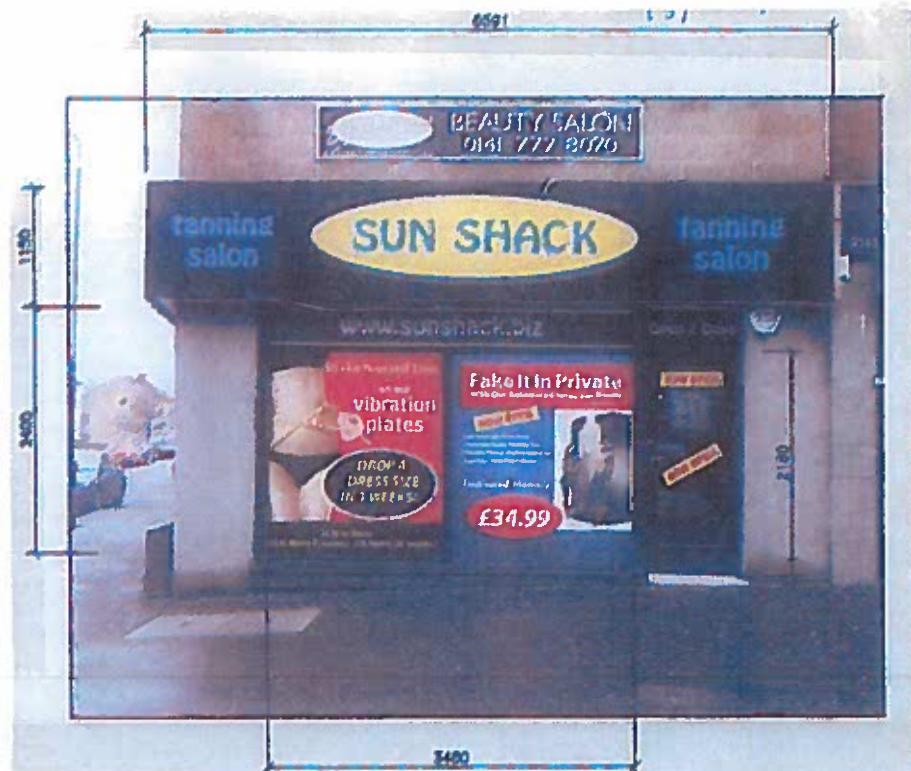
Details of the Advertisements Displayed Within the Elevation Facing onto Townhead, Kirkintilloch:

3. Fascia Sign

The illuminated advertisement takes the form of a single sided fascia sign fixed to the fabric of the building facing onto Townhead, Kirkintilloch. The display area of the advertisement is generally rectangular (horizontal emphasised) in shape and measures 1.15 metres in height by 6.59 metres in length and is located directly above the window openings of the ground floor premises. The colour scheme of the advertisement comprises of a black background with a centrally placed oval shaped logo flanked to each side by blue coloured text reading "tanning salon". The logo itself has a yellow coloured background with blue coloured text reading "SUN SHACK" together with a thin blue coloured border around the edge of the oval shape. For the avoidance of doubt, a digital photograph of the fascia sign is below.

4. Window Advertisement

The advertisement takes the form of two different large multi coloured image printed on a vinyl/film or similar material attached to the internal surface of the glazing to the window openings on the ground floor level of the premises facing onto Townhead, Kirkintilloch. The combined display area of the advertisements is generally rectangular in shape measuring 2.40 metres in height by 3.48 metres in width. For the avoidance of doubt, a digital photograph of the two window advertisements is below.



ENFORCEMENT OF ADVERTISEMENT CONTROL

SCHEDULE 2

REPORT OF HANDLING: TP/ED/13/0029



sustainable thriving achieving

East Dunbartonshire Council

www.eastdunbarton.gov.uk

DEVELOPMENT QUALITY REPORT

Application Number: TP/ED/13/0029 Application Type: Advertisement Application

Proposal illuminated fascia signs and window displays	Site Shop 2 Freeland Place Kirkintilloch East Dunbartonshire G66 1ND
Applicant Mr R. Russell Sunshack Kirkintilloch 2 Freeland Place Kirkintilloch Glasgow G66 1NG	Agent Peter Jarvie Scotdraw Architectural Services 10 Lochmaben Road Gartcosh Glasgow G69 8LA
Date of Application 16 January 2013	Date of Validation 28 January 2013
Local Plan East Dunbartonshire Local Plan 2 – October 2011	Community Council Kirkintilloch Community Council
Ward Lenzie & Kirkintilloch South	Advert
Recommendation Refuse and Enforce	Target Determination Date 27 March 2013
Case Officer MR Patrick O'Sullivan 0141 578 8536	Date of Decision

DESCRIPTION

Illuminated fascia signs and window displays.

SITE HISTORY

Planning Application: TP/ED/12/0710

Description: change of use of vacant unit to Class 2 - tanning salon

Status: Grant subject to condition(s)

Decision Date: 07/11/2012

Pre Application Enquiry: ENQ/ED/2012/00659

Description: Would there be any concerns to a change of use to a tanning salon.

Status: Advised planning consent would be required.

POLICY CONTEXT

The application site lies within an area covered by the East Dunbartonshire Local Plan 2 - October 2011 and is covered by the following policies:

DQ1 – Assessing Proposed Uses;

DQ2 – Design Quality;

DQ2C – Advertisements;

HE3A – Conservation Areas

The following Council approved Guidance Notes are material policy considerations in the assessment of the application.

Guidance Note 1: Advertisement Control

Guidance Note 12 - Historic Environment

Guidance Note 19 - Shopfronts and Canopies

REPRESENTATIONS

Number of Neighbours Notified:	0
Total Number of Contributors:	0
Number of Letters of Objections:	0
Number of Letters of Support:	0
Number of Letters of Representation (Neutral):	0

No representations have been received.

DISCUSSION WITH APPLICANT

The applicant's agent has been advised the proposal in its current format would not comply with Local Plan policies. Despite this advice revised details have not been submitted to address this concern.

CONSULTATION

None required.

ASSESSMENT

2 Freeland Place is a three storey building with the ground floor occupied by a tanning salon (Sun Shack). The application is for retrospective consent to retain two illuminated fascia signs on the external façade of the property fronting onto both Freeland Place and Townhead and non-illuminated internal signage in the windows of the property.

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that all applications should be assessed in terms of the Development Plan unless material considerations indicate otherwise. In this case the Development Plan consists of the Glasgow and Clyde Valley Strategic Development Plan 2012 and East Dunbartonshire Local Plan 2 October 2011.

The application is not of strategic significance and therefore will be assessed against the provisions of the Local Plan.

In accordance with Local Plan Policy DQ2C 'Advertisements' and Local Plan Guidance Note 1 'Advertisement Control', when considering applications to display advertisements, the impact of the proposal on the amenity of the site and surrounding area and the impact on public safety (including pedestrians and road users) will be taken into account. The signage is a large box style fascias positioned above the window level extending along the width of the elevations on both Freeland Place and Townhead. The fascia signs are predominately black in colour with a section of yellow background behind the business title SUN SHACK in blue lettering. The two fascias are approximately 10.655m. (Freeland Place) and 6.591m. (Townhead) in width with a depth of 1.15m. The application also includes three window signs to the Freeland Place elevation with dimensions of 2.4m. (height) x 2.42m. (width) which fill in the entire glazed area of these window openings. There are two further window signs on the Townhead elevation with a height of 2.4m. and a combined width of 3.48m.

Planning Guidance Note 1 'Advertisement Control', advises that advertisements on commercial premises should be restricted to the fascia area of the premises. This guidance also advises that advertisements should be related to the scale and form of the building which it is displayed. This guidance also advises that the depth of the fascia signage should not exceed 700mm. The development as existing has failed to have regard to this guidance.

In terms of these advertisements they are considered to dominate the property in terms of there scale, design, massing and illumination. The fascia's which are illuminated occupies approximately 29% and 30.5% of the ground floor elevations of both the Freeland Place elevation and the Townhead elevation respectively. The fascia's are also significantly larger (1.15m.) than the recommended depth of 700mm. The size and massing of the fascia is further exacerbated with the presence of the five window signs which occupies 40.5% and 30.5% of both the Freeland Place elevation and the Townhead elevation respectively. In total these adverts combined occupy a total of 69.5% of the Freeland Place elevation and 64.5% of the Townhead elevation and are considered to dominate the ground floor element of the property and are not considered to be related to the scale and form of the building.

The proposed colour and overall design of the fascias is considered to be undignified and will be incongruous to the surrounding area. The signage is also considered to be excessive in relation to the building and with this site being on a prominent corner position will detrimentally affect the visual amenity of the area and represents an unsympathetic addition. Furthermore, the signage is in close proximity of to the Central Kirkintilloch Conservation Area on the opposite side of Freeland Place. The signage overall is considered to represent an over dominant and unduly prominent feature at such a sensitive corner location within the town centre.

Furthermore it is noted that there is further unauthorised signage located at first level of the property immediately above the SUN SHACK advertising a beauty saloon. This signage has not received Advertisement Consent and as such the Council's Planning Enforcement Section have been notified.

Conclusion

Taking the above into account, the design of the signage as existing represents an unsympathetic addition to the host property that would be contrary to local plan policies and guidance and has an adverse impact on the property, surrounding streetscape and the nearby Central Kirkintilloch Conservation Area. It is therefore recommended that advertisement consent be refused.

RECOMMENDATION

Refuse and Enforce

1. The proposed fascia signs and window signs, by virtue of their size, design, external appearance and siting at a prominent corner would result in an unsympathetic addition to the host property which adversely affects the appearance of the building and the wider street scene. The proposal would thereby be contrary to the provisions of the East Dunbartonshire Local Plan and in particular Policy DQ 2C: Advertisements which states: 'When considering applications to display advertisements, the Council will take account of the

impact of the proposal on the amenity of the site and the surrounding area' and Guidance Note 1 Advertisement Control.

Advisory Notes(s):

Head of Development & Enterprise

ENFORCEMENT OF ADVERTISEMENT CONTROL

SCHEDULE 3

EXPLANATORY NOTE FOR THOSE IN RECEIPT OF AN ADVERTISEMENT ENFORCEMENT NOTICE

Relevant Legislation

Extracts of applicable legislative provision are contained in **Schedule 3** to this Notice, and include section 186 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, together with regulations 24, 25 and 26 of the Regulations. The following notes are also relevant.

Right of Appeal

If you wish to appeal against this notice, you should write to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively, you may submit your appeal online at <https://eplanning.scotland.gov.uk/WAM/>. The appeal must be received, or posted in time to be received by the Directorate before the date on which the notice takes effect. The Scottish Ministers have no power to consider an appeal lodged out of time.

The appeal, which must be made in writing, must be based on one or more of the grounds set out in regulation 25(2)(b)(i) to (iv) of the Regulations, and you should state the facts on which you propose to rely in support of each of the grounds of appeal. The statement of facts and the grounds of appeal must be submitted with your appeal.

If you lodge an appeal, the Enforcement Notice will be suspended and will not take effect until such time as the appeal is withdrawn or dismissed.

Consequences of not complying with an Advertisement Enforcement Notice

If the steps required by an Enforcement Notice are not taken within the specified period (s), the Council may enter the land and take Direct Action under regulation 26 of the Town and Country Planning (Scotland)(Control of Advertisements)(Scotland) Regulations 1984 as amended, to meet those requirements. Please note that it is an offence for any person to wilfully obstruct a person acting in the exercise of such Direct Action. Furthermore, all reasonable costs incurred by the Council during this process, including administration expenses, will be recovered from the owner, or lessee of the land.

If a fixed penalty is paid, the Council retains the power to take direct action to remedy the breach and recover any associated costs.

Further Offences

Compliance with the terms of an enforcement notice does not discharge the notice. It will continue in effect and any repetition of the breach of control may incur further penalties or may result in direct action by the Council.

ENFORCEMENT OF ADVERTISEMENT CONTROL

SCHEDULE 3

ENFORCEMENT

Section 186 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

Section 186. Enforcement of advertisement control

(1) Regulations under section 182 may make provision for enabling the planning authority to Require-

- (a) the removal of any advertisement which is displayed in contravention of the regulations, or,
- (b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.

(2) For that purpose the regulations may apply any of the provisions of Part VI with respect to enforcement notices or the provisions of section 143(1) to (5), subject to such adaptations and modifications as may be specified in the regulations.

(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, one-tenth of level 3 on the standard scale for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if-

- (a) he is the owner or occupier of the land on which the advertisement is displayed, or
- (b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only-

- (a) of his being the owner or occupier of the land on which an advertisement is displayed, or
- (b) of his goods, trade, business or other concerns being given publicity by the advertisement,

if he proves that it was displayed without his knowledge or consent.

Regulations 24, 25 and 26 of the Town & Country Planning (Control of Advertisements) (Scotland) Regulations 1984 as amended.

24. Enforcement of advertisement control

(1) If it appears to a planning authority that any advertisement has been displayed without a consent required by these regulations or that any condition or limitation subject to which such consent was granted or was deemed to be granted has not been complied with, then the planning authority may serve a notice under this regulation.

(2) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person known to the planning authority to be displaying the advertisement without such consent, or in contravention of any condition or limitation or subject to which consent was granted or deemed to be granted.

(3) An enforcement notice shall specify the advertisement which is alleged to have been displayed without consent or the matters in respect of which it is alleged that any condition or limitation has not been complied with, and may specify steps that shall be taken within a given period to restore land to its condition before the display was begun or to secure compliance with the condition or limitation; but may in addition specify, as an alternative, steps required to be taken to bring the display to a condition acceptable to the planning authority having regard to the provisions of these regulations and in particular any such notice may for this purpose require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(4) Subject to section 131 (3) of the Act as applied by regulation 25, an enforcement notice shall take effect on the date specified in the notice, which date shall be—

(a) in the case where the planning authority consider it urgently necessary in the interests of public safety that the advertisement to which the notice relates should be altered or removed, or where they are satisfied that any steps required by the notice to be taken can be taken without the removal or substantial modification of any structure or the carrying out of any building or similar operations on land, 7 days; and

(b) in any other case 28 days,

from the date of the latest service of the notice.

(5) Compliance with an enforcement notice shall not discharge the enforcement notice.

(6) Without prejudice to paragraph (5) above, any provision of an enforcement notice requiring the use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently to the extent that it is in contravention of these regulations; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(7) If any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as out applied in relation to the buildings or works before they were demolished or altered.

25. Enforcement Appeals to the Scottish Ministers

(1) The provisions of sections 130 to 132 of the Act apply in relation to an enforcement notice served under regulation 24 as they apply to an enforcement notice issued under section 127 of the Act subject to the modifications specified in paragraph (2).

(2) The modifications are—

(a) references to an enforcement notice are to be treated as references to an enforcement notice served under regulation 24;

(b) section 130(1) of the Act applies as if the grounds of appeal were—

(i) that the matters alleged in the notice do not constitute a display of an advertisement without a consent required by these regulations or a failure to comply with any condition or limitation subject to which any such consent was granted or deemed to be granted;

(ii) that the enforcement notice was not served as required by regulation 24;

(iii) that the specified period for compliance with the notice falls short of what should reasonably be allowed;

(iv) that the steps required by the notice to be taken exceed what is necessary for the purpose identified under regulation 24(3); and

(c) the reference in section 132(4) of the Act to section 127(2) is treated as a reference to regulation 24 of these Regulations.

26. Execution and costs of operations required by enforcement notice

(1) If within the period specified in an enforcement notice, or within such extended time as the planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the planning authority may enter on the land and take those steps and, subject to the proviso to this regulation, may recover as a civil debt from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in taking those steps; and if that person, having been entitled to appeal to the Scottish Ministers under regulation 25, failed to make such an appeal, he shall not be entitled in proceeding under this paragraph to dispute the validity of the action taken by the planning authority in accordance with the notice:

Provided that where the person who is then the owner or the lessee of the land would have been entitled, under section 165 of the 1997 Act, to compensation in respect of any expenses reasonably incurred by him in removing the advertisement, the planning authority shall not be entitled to recover their expenses from that person.

(2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice, and any sums paid by the owner or by the lessee of any land in respect of the planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the display was carried out.

(3) Where a planning authority seek to recover any expenses under this regulation from a person on the basis that he is the owner of any land, and such a person proves:

(a) that he has no interest in the land except in the capacity of a trustee, tutor, curator, factor or agent of some other person; and

(b) that he has not, and since the date of service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole of the demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but a planning authority who by reason of the foregoing provisions of this regulation have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.